

US EPA ARCHIVE DOCUMENT

**PROGRAM DESCRIPTION
STATE OF TEXAS
TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
INDUSTRIAL AND HAZARDOUS WASTE DIVISION
RCRA II AND III CLUSTERS**

I. INTRODUCTION

A. History of Environmental Regulation in Texas

From 1965 to 1993, the Texas Air Control Board was responsible for air quality regulation in Texas. Prior to September 1, 1985, the Texas Department of Water Resources had responsibility for water resource protection and management. On September 1, 1985, the Texas Water Commission assumed primary responsibility for protecting Texas' water resources. In addition, jurisdiction over the municipal solid waste management functions of the Texas Department of Health was transferred to the Texas Water Commission on March 1, 1992. Effective September 1, 1993, the Texas Natural Resource Conservation Commission assumed jurisdiction over most environmental regulation in Texas.

B. The Texas Natural Resource Conservation Commission

Under the Texas Solid Waste Disposal Act (codified in Chapter 361 of the Texas Health and Safety Code), the Texas Natural Resource Conservation Commission (the "Commission" or "TNRCC") has the primary responsibility for the administration of laws and regulations concerning hazardous waste. The TNRCC combined the functions of two former agencies, the Texas Water Commission and the Texas Air Control Board. The combined commission has over 3,000 employees, fifteen regional field offices, and has regulatory oversight for protecting air, water, and land resources in Texas from pollution.

Pursuant to sections 91.101 and 91.602 of the Texas Natural Resources Code and section 361.003(34)(A)(iii) of the Texas Health and Safety Code, the Railroad Commission of Texas is currently the lead agency with respect to oil and gas hazardous waste, except waste associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants.

C. RCRA Authorization

Since the beginning of the Federal hazardous waste management program, the State of Texas has continuously exercised its prerogative to participate in the Environmental Protection Agency's authorization program. Texas received authorization of its hazardous waste "base program" under the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. §§6901 *et seq.* (1976) on December 26, 1984. Texas received authorization for revisions to its base program on February 17, 1987 (non-HSWA Clusters I & II). Texas submitted further revisions to its hazardous waste program and final authorization of those revisions became effective on March 15, 1990 (non-

HSWA Cluster I and parts of non-HSWA Cluster VI); July 23, 1990 (HSWA Cluster I); October 21, 1991 (TCLP); December 4, 1992 (non-HSWA Cluster IV); June 27, 1994 (non-HSWA Clusters V and VI, HSWA Cluster II, and RCRA I).

II. SCOPE AND COVERAGE

The TNRCC has adopted rules necessary to implement revisions to the federal hazardous waste program which were made from July 1991 through June 1993. The revisions, described in "RCRA Cluster II" and "RCRA Cluster III," were effective on February 26, 1996 and March 1, 1996. In some instances, TNRCC rules already reflected the relevant federal provision, and a rule change was not necessary. The RCRA II and III clusters include the following regulations:

1. Wood Preserving Listings; Technical Corrections (Checklist 92).
2. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I (Checklist 94).
3. Land Disposal Restrictions for Electric Arc Furnace Dust (K061) (Checklist 95).
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II (Checklist 96).
5. Exports of Hazardous Waste; Technical Correction (Checklist 97).
6. Second Correction to the Third Third Land Disposal Restrictions (Checklist 102).
7. Hazardous Debris Case-by-Case Capacity Variance (Checklist 103).
8. Used Oil Filter Exclusion (Checklist 104).
9. Recycled Coke By-Product Exclusion (Checklist 105).
10. Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance (Checklist 106).
11. Used Oil Filter Exclusion; Technical Corrections (Checklist 107).
12. Toxicity Characteristic Revisions; Technical Corrections (Checklist 108).
13. Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris (Checklist 109).
14. Coke By-Products Listings (Checklist 110).

15. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III (Checklist 111).
16. Consolidated Liability Requirements (Checklist 113).
17. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment IV (Checklist 114).
18. Chlorinated Toluenes Production Waste Listing (Checklist 115).
19. Hazardous Soil Case-by-Case Capacity Variance (Checklist 116).
20. Reissuance of the "Mixture" and "Derived-From" Rules (Checklist 117A).
21. Toxicity Characteristic Amendment (Checklist 117B).
22. Liquids in Landfills II (Checklist 118).
23. Toxicity Characteristic Revision; TCLP Correction (Checklist 119).
24. Wood Preserving; Revisions to Listings and Technical Requirements (Checklist 120).
25. Corrective Action Management Units and Temporary Units (Checklist 121).
26. Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance (Checklist 123).
27. Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated (Checklist 124).

Texas is not seeking authorization for optional Checklists 98 or 101. Also, Texas' application for authorization for RCRA II does not include Checklist 93 because the requirements of that checklist have been consolidated into Checklist 113. Texas is deferring seeking authorization for Checklists 99 and 100 at this time in order to complete further rulemaking necessary to implement those checklists. The state will also apply for delegation of the regulatory requirements in Checklists 112 and 122 separately, along with Checklist 130.

III. STRUCTURE AND PROCESSES OF THE TNRCC

A. The Commission

Three full-time commissioners perform the legislative and judicial functions of the TNRCC. The commissioners are appointed for staggered six-year terms by the governor with the advice and

consent of the Texas Senate. A commissioner may not serve more than two six-year terms. The governor also appoints the chairman of the Commission.

The Commission meets as necessary to render decisions concerning matters within its jurisdiction, including permits and other authorizations. The Commission also establishes the general policies of the agency and adopts the rules necessary to carry out the statutory responsibilities of the Commission. The Commission employs an executive director and seven deputy directors to administer agency programs. The Commission also appoints a general counsel, a chief clerk, and a public interest counsel.

B. Offices that Report to the Commissioners

Six offices report directly to the Commissioners. The **General Counsel** is the chief legal advisor to the three commissioners and the agency's ethics advisor. The internal structure of the office includes the General Counsel, several assistant general counsels, and support staff.

The **Office of Public Interest Counsel** was created by the legislature to ensure that the public interest is represented in contested matters heard by the Commission. The office is headed by the Public Interest Counsel, who is appointed by the Commission, and who is assisted by several assistant public interest counsels. The office participates in hearings to develop the evidence presented on environmental and consumer protection issues. Although the counsel does not serve as an attorney for people who wish to participate in a hearing, the counsel may assist individuals by explaining hearing procedures or legal issues that may arise, and by ensuring that individuals are able to participate meaningfully and that issues of concern to them are presented.

In addition, the Commission has also recently established an **Office of Public Assistance**, which will provide an easier and centralized point of access to the agency for the public who have questions about permits and the permitting process. The Commission has also established an **Alternative Dispute Resolution** office as a means of ensuring and enhancing public participation in the permitting process and bringing to resolution matters before the need for a contested case hearing.

The **Chief Clerk** is responsible for ensuring proper and timely issuance, publication, and posting of required notices of application, public hearings, and public meetings concerning matters that are being processed and/or heard by the Commission. The public notice and hearing processes of the Commission are discussed in greater detail in Section IV below. After formal action by the Commission on permit applications and other matters, the Chief Clerk's Office transmits the final decision documents to applicants and other parties. In addition, the Chief Clerk is designated as custodian of records of Commission proceedings and is responsible for maintaining the official recordings of Commission meetings.

The **Internal Audit** staff conducts financial and operational audits of agency operations. Internal audits improve efficiency of agency operations, assess effectiveness of the agency's system of

internal accounting and operating controls, ensure compliance with state and federal requirements, and safeguard agency assets.

C. The Executive Director's Office

The Executive Director manages the day-to-day administration of the agency. The Executive Director, aided by a Deputy Executive Director, oversees the seven deputy directors who are responsible for the administration of the agency's programs. In addition, seven offices report directly to the Executive Director: the Office of Pollution Prevention & Recycling, Small Business Assistance, the Office of Border Affairs & Environmental Equity, Intergovernmental Relations, Strategic Planning & Appropriations, Media Relations, and the Chief Engineer.

1. Office of Pollution Prevention & Recycling

The Office of Pollution Prevention & Recycling, created in September 1991 by Senate Bill 1099, administers the state pollution prevention programs. Primary office functions include providing information and assistance for businesses and industries on source reduction and waste minimization through workshops and other activities. Other activities of the office include developing the necessary data collection programs to evaluate the state's progress in reducing waste; producing a biennial report on source reduction and waste minimization activities, achievements, problems, and goals; and participating in existing state, federal, and industrial networks of individuals and groups involved in source reduction and waste minimization. The office also works on water conservation issues across all agency areas and chairs an Interagency Council for Pollution Prevention to coordinate pollution prevention efforts across all state agencies.

2. Small Business Assistance

Small Business Assistance is a resource to help small businesses in Texas achieve voluntary compliance with environmental regulations through a better understanding of the Commission's compliance and enforcement processes. In particular, this office is charged with the development of workshops and written materials concerning the proper storage, transportation, and disposal of hazardous waste.

3. Office of Border Affairs & Environmental Equity

The Office of Border Affairs & Environmental Equity is the Commission's liaison with Mexico. This division coordinates the agency's environmental programs with local U. S. officials as well as local, state, and federal Mexican officials. The primary functions of the division are to ensure that water quality standards are met, that maquiladora-generated hazardous waste is disposed of properly, and that drinking water is used properly. The division also plans initiatives, promotes public education about border issues, and spearheads community involvement to promote a better border environment.

This division also develops policy for dealing with environmental equity issues. In particular, the division evaluates activities related to the RCRA program and their potential impact on the aged, ethnically and economically disadvantaged and encourages participation by all segments of the affected community in permitting, policy, and regulation development processes.

4. Intergovernmental Relations

Intergovernmental Relations coordinates policy with the Office of Policy and Regulatory Development, develops legislative proposals needed by the agency, ensures that new legislation is implemented by the agency, and provides a point of contact for legislators, lobbyists, and trade associations.

5. Strategic Planning & Appropriations

The Strategic Planning and Appropriations Division is responsible for developing and submitting to the Texas Legislature the agency's strategic plan, biennial legislative appropriations request, and quarterly performance reports. The division is also responsible for preparing financial impact analysis of regulatory and proposed legislation, long-range financial and programmatic planning, and special projects for the Executive Director's Office.

6. Media Relations

Media Relations coordinates development of the agency's response to media inquiries and other agency communications with parties outside the agency. The division also provides research, writing, and production oversight as needed for internal and external agency-level communications. Finally, the division coordinates efforts of the Commissioners and the executive staff to communicate information and build support for TNRCC programs, regulations, and initiatives.

7. Chief Engineer

The Chief Engineer provides technical quality assurance for a range of regulatory activities including permitting, rule development, and pollution cleanup. The Chief Engineer also serves as a chief technical advisor to the Executive Director and chairs the Commission's Senior Technical Council. In addition to the technical oversight role, the Chief Engineer directs the activities of the Innovative Technology Program (ITP) and the Proposition 2 Use Determination Program.

The Innovative Technology Program seeks to identify and encourage the use of new technologies that can bring about improvement to Texas' environment in a cost-effective manner. The program supports approved processes for technology demonstrations, permits, and projects; promotes rule revision where necessary; and educates the public and the staff on these technologies. The ITP maintains a list of designated technologies, as well as an electronic data base of detailed information on technology vendors.

The Proposition 2 Use Determination Program is charged with implementing House Bill 1920, passed during the 73rd Legislature. House Bill 1920 provides a property tax exemption for property that a facility installs in response to an environmental rule, regulation, or law. The TNRCC is charged with determining if the installed property is considered to be a pollution control device. To qualify, the pollution control device must have been installed after January 1, 1994.

D. OFFICE OF WASTE MANAGEMENT

The Deputy Director of Waste Management oversees five program divisions: Industrial & Hazardous Waste, Municipal Solid Waste, Petroleum Storage Tank, Pollution Cleanup, and Waste Planning & Assessment.

1. Industrial & Hazardous Waste Division

The Industrial & Hazardous Waste Division oversees all state regulatory aspects of industrial and municipal hazardous waste and nonhazardous industrial solid waste activities in Texas except enforcement, which is now managed by the Office of Compliance and Enforcement as discussed in section III.E below. The Division has four main functions: (1) processing permits for industrial and hazardous waste management facilities; (2) assuring proper remediation of solid waste sites; (3) overseeing the tracking of industrial and hazardous waste in Texas by using the manifest system and other mechanisms; and (4) maintaining an annual waste generation fee and facility fee fund and a hazardous waste management fund, which supplement federal funding for both RCRA and non-RCRA programs.

The Commission is delegated many federal permitting and enforcement responsibilities with regard to hazardous and solid waste. Applications for storage, processing, and disposal of industrial solid wastes and hazardous wastes are processed by the division's **Permits Section**. This section also implements the state's joint permitting agreement with EPA. The Commission uses standardized Part A and Part B application forms; copies of these forms are attached. Technical staff members review and evaluate applications and develop information and recommendations to assist the commissioners in deciding whether to issue or deny a permit.

Applications are first reviewed for administrative completeness and are then forwarded for technical review. Once technical review is completed, the staff then recommends approval or denial of the application. If denial is recommended, then a technical report is prepared to document the recommendation, and the applicant has an opportunity to request a hearing.

If the staff recommends approval of the application, a draft permit is prepared along with a short technical summary of the project. Draft permits prepared by the staff note the provisions for which TNRCC is not authorized and indicate that EPA will implement those requirements. If necessary, the permit is reviewed for legal sufficiency by the Legal Division. The draft permit is transmitted to the applicant and to EPA Region 6 and the appropriate TNRCC region office for comment. Comments may result in changes in the draft permit. A final draft permit is then

prepared and mailed to the applicant, along with a technical summary, compliance plan (if applicable), a notification list, and compliance history. These materials are also transmitted to the Chief Clerk for public notice. The Commission's public notice and hearing procedures are described below in Section IV.

Permitting of Class I underground injection control (UIC) wells used for disposal of industrial and municipal waste fluids and licensing of radioactive substance disposal sites are functions of the **UIC, Uranium and Radioactive Waste Section**.

The **Waste Evaluation Section** is responsible for the internal and external data processing and reporting functions of the division, including the maintenance of certain data for the Commission and for EPA's national database. Staff evaluate and maintain an array of data pertaining to hazardous waste permits and compliance monitoring activities. This section also prepares and maintains the hazardous waste capacity assurance plan for Texas.

Hazardous waste is tracked through a hazardous waste manifest and reporting system. Under the manifest system, all generators complete a uniform manifest form (TNRCC Form 0311) which tracks the quantity, type, management and final disposal of the waste generated; a copy of this form is attached. The original manifest form, which is completed in quadruplicate, is signed by the generator. When the generator delivers the waste to an independent transporter, the transporter will sign the manifest acknowledging receipt of the waste. The transporter then delivers the waste to a storage, processing or disposal (SPD) facility which also acknowledges receipt of the waste on the manifest form. The transporter and SPD facility maintain copies of the signed manifest and a final completed form is sent to the generator. In addition, TNRCC utilizes and encourages its hazardous waste reporters to use an electronic data tracking program, the State of Texas Environmental Electronic Reporting System (STEERS).

Hazardous waste reporters are not required to submit copies of the manifests to the TNRCC. Instead, hazardous waste reporters must complete monthly summaries and annual reports which provide summaries of the waste generated, its management and final disposition. These reports are based upon the manifests. TNRCC then provides bi-annual reports of all waste generated in Texas to the EPA.

The Commission's rules contain specific additional requirements applicable to interstate and international shipments of waste. For example, for interstate shipments, the consignment state's manifest form must be used if provided; otherwise, a Texas manifest form must be prepared. If the manifest for an interstate shipment of waste has not been returned within 45 days of acceptance of the waste by the initial transporter, the generator must notify the appropriate regulatory agency of the consignment state, or if that state does not have interim or final RCRA authorization, the generator must notify the EPA Administrator. International shipments of waste are subject to the EPA notification requirements set out in 40 C.F.R. § 252.53, as well as other specific requirements. Generators and primary exporters who ship waste to other states or who export waste to a foreign country must prepare and submit to TNRCC a Waste Shipment Summary for

each month in which such shipments occur.

The **Corrective Action Section** evaluates, modifies, and approves plans designed to determine if ground water contamination has occurred at permitted facilities and to implement appropriate ground water corrective actions plans. Staff members perform comprehensive ground water monitoring evaluations and review contamination assessment plans and ground water quality data. This section provides technical and regulatory reviews to ensure the adequate closure of units that manage industrial solid waste or hazardous waste. Within this section is the Federal Facilities Unit, which is responsible for numerous activities related to the remediation of twenty-six U.S. Department of Defense facilities.

The **Technical Consultants Section** is composed of staff with a cadre of regular duties who also work on special problems, issues, and projects within the realm of their expertise and experience. This group is comprised of persons highly skilled in engineering, ground water, regulatory affairs, statistics, risk management, data analysis, geotechnology, legislative matters, and program planning and development.

2. Municipal Solid Waste Division

The Municipal Solid Waste Division regulates the collection, handling, storage, and processing of nonhazardous municipal solid wastes originating in residences, businesses, commercial activities, institutions, recreational, and military facilities. The **Administration & Logistical Support Section** provides support to all division functions.

The **Permits Section** provides permits processing and technical support, and registrations processing. Permit applications for facilities that plan to dispose of or process municipal solid waste are reviewed and processed. Upon completion of application reviews, recommendations are made for permit issuance or denial. Staff also conduct in-depth analyses and participate in public meetings on proposed facilities.

The recently created **Automotive Waste Management Programs Section** oversees regulatory activities concerning generators and transporters of scrap tires, tire storage facilities, and used oil.

3. Petroleum Storage Tank Division

The Petroleum Storage Tank Division is charged with protecting the quality of Texas ground and surface water resources from contamination caused by releases from underground and above-ground storage tanks that contain petroleum product and substances. The division coordinates extensively with the U.S. EPA regarding the federal underground storage tank regulatory program and the administration of the federal leaking underground storage tank (LUST) trust fund in Texas. Accordingly, the division is responsible for the implementation of the state and federal programs for the prevention and cleanup of contamination resulting from leaking tanks.

The division's **Registration Section** reviews and records new and amended storage tank registration data and maintains a computerized database. The information maintained by this section also is used in the agency's storage tank fee filing program. Additionally, this section issues registration certificates to owners of certain petroleum storage tanks, which provide documentation of registration for product delivery purposes and for eligibility for participation in the state ground water cleanup program and the petroleum storage tank remediation (PSTR) fund.

The **Technical Services Section** performs the technical review and evaluation of planning materials, reports, and specifications for storage tank system equipment and operating procedures, and for specific construction activities, including storage tank projects in the sensitive Edwards Aquifer Recharge Zone. Section staff also review and record storage tank construction notification data, and coordinate construction activity scheduling and monitoring with inspectors in the Field Operations Division.

The **Responsible Party Remediation Section** records and evaluates all reported releases of petroleum product and substances from regulated storage tanks. This section directs and assists the responsible parties in their corrective action activities to ensure the proper abatement, assessment, cleanup, and remediation of any contamination resulting from such release incidents. To accomplish this function, section staff issue written corrective action directives to the responsible party, evaluate the environmental site assessment reports, and monitor the implementation of approved corrective action plans developed by the responsible party. For many minor release incidents, and in certain other specific cases, personnel from the agency's Field Operations Division will oversee and direct the corrective action activities by the responsible party.

The **Reimbursement Section** processes applications from responsible parties for reimbursement of eligible and allowable corrective action expenses from the state Petroleum Storage Tank Reimbursement Fund. Administration of agency rules for the storage and treatment of petroleum substance wastes generated as a result of petroleum storage tank releases also is handled by this section. Staff process and record applications for authorization and registration data for facilities that treat, store, or otherwise manage nonhazardous petroleum substance contaminated soils and water.

This division also includes the **Stage II Vapor Recovery Section**, which is responsible for developing a vapor recovery program that meets Clean Air Act requirements, and the **State-Lead Remediation Section**, which oversees state-funded remediation projects.

4. Pollution Cleanup Division

The Pollution Cleanup Division identifies and manages the removal of hazardous wastes posing a short-term threat to citizens or the environment and responds to releases of oil and hazardous substances on land areas and inland waterways. For long-term problems, where removal or cleanup is not adequate to protect health and the environment, the division ranks, investigates,

selects, and designs remedies for, and oversees construction activities at state and certain federal Superfund sites. The division oversees projects at EPA-lead federal Superfund sites, as well as state-lead sites. In addition, a **Voluntary Cleanup Section** was recently established.

The **Technical Support Section** establishes and maintains administrative and program management procedures. Section staff assist in the development of technical and financial policy, provide expert technical services and training to project managers and support staff, and provide services for contract and grant management.

The **Emergency Response and Assessment Section** receives spill reports and also identifies sites that may qualify as State Superfund sites, assesses and prioritizes eligible sites for continued evaluation, and identifies potentially responsible parties for eligible sites. Staff determine which of the eligible sites are causing irreversible or irreparable harm to the public and require an immediate removal action. The section seeks voluntary, immediate removal action when required, and site cleanup from the identified potentially responsible parties prior to the proposal of the site as a state Superfund site. Staff prepare Hazard Ranking Packages, which determine the related need of cleanup at each site. This section also participates in the EPA Cooperative Agreement to administer and provide oversight of EPA/Site Screening Inspections.

The **Investigation Section** manages performance of remedial investigations and feasibility studies (RI/FS) under the state Superfund statute and rules. Staff notify potentially responsible parties of the need to conduct an RI/FS at proposed state Superfund sites. They also conduct public meetings to list sites on the State Superfund Registry to inform the public of the selected cleanup remedy or to de-list a site from the Registry. For fund-financed state Superfund sites, the section procures contracts, negotiates contracts, and oversees consultants' technical and financial performance during RI/FS work. For potentially responsible party-financed state Superfund sites, the section negotiates administrative orders, reviews work plans and reports for technical sufficiency, oversees performance of all RI/FS activities, and approves the most appropriate cleanup remedy. Staff also manage the post-remedial action operations and maintenance of sites until the site no longer pose a threat to human health or the environment.

The **Engineering Section** has three primary duties:

- * To provide technical support during remedial investigations and assume primary responsibility for engineering aspects of the feasibility study, all under the direction of the Superfund Investigation Section;
- * To manage the funding, design, and construction of the cleanup of all state-lead federal Superfund and State Superfund Registry sites in Texas; and
- * To manage and coordinate removals of hazardous wastes from non-Superfund/non-RCRA hazardous waste dump sites, when such removals are not an emergency or of a time-critical nature.

To achieve these purposes, section staff secure cooperative agreements (grants) from the U.S. EPA to fund remedial designs and remedial actions (cleanups) at federal Superfund sites, and contract for and supervise engineering and construction services at Superfund sites during the implementation of the remedy. Finally, this section provides engineering technical assistance and review for EPA Region 6 and other sections of the division.

5. Waste Planning and Assessment Division

The Waste Planning and Assessment Division's duties include implementing the Texas Strategic Solid Waste Plan and twenty-four regional solid waste management plans through grant programs; prioritizing permit applications and processing required annual reports for permitted municipal solid waste facilities; providing technical assistance to the investigation and cleanup of underground and above-ground storage tank sites; coordinating bankruptcy management; providing technical assistance in the development of the Coastal Zone Management Plan, Integrated Border Environmental Plan, and Texas Water Plan to ensure consideration of natural resource protection; providing technical assistance, information, and training to enhance awareness of regulatory responsibilities and efficient field operations; developing the Capacity Assurance Plan to satisfy EPA planning requirements; and initiating the Non-Hazardous Waste Assessment to provide information for municipal solid waste and non-hazardous waste permitting.

E. OFFICE OF COMPLIANCE & ENFORCEMENT

The Deputy Director of Compliance & Enforcement oversees three divisions: Field Operations, Enforcement, and Compliance Support.

1. Field Operations and Enforcement Divisions

Compliance monitoring is the primary function of the **Field Operations Division**. The division monitors surface and ground water quality, hazardous and solid waste, air quality, petroleum storage tanks, and water rights. On March 1, 1992, the division assumed the monitoring duties of the Texas Department of Health related to municipal solid waste and public drinking water supplies.

Field Operations ("FO") administers fifteen region offices throughout the state and maintains an analytical laboratory in Houston. The region offices perform most of the monitoring activities for the agency. Division inspectors in the agency's region offices conduct inspections of municipal and industrial wastewater treatment facilities on a routine basis to evaluate the facilities' compliance status. In addition, streams, reservoirs, and estuaries are monitored for compliance with state water quality standards. Inspectors monitor the installation and removal of above-ground and underground storage tanks. Water utility districts in the process of creation are inspected, along with their progress in constructing wastewater treatment facilities. Every public or private system providing drinking water requires monitoring to assure safe water supplies.

Monitoring non-hazardous waste, including municipal landfills, special wastes, discarded automobile tires, waste oil and filters, septic tank pumpings, medical waste, and incinerator ash, is a responsibility of division inspectors. Region staff also inspect facilities that generate, store, process, or dispose of industrial solid waste or hazardous waste to determine if these activities are conducted in accordance with the Texas Solid Waste Disposal Act and the Texas Water Code. In addition to routine Compliance Evaluation Inspections, inspections may be conducted at any time to obtain additional information in support of potential enforcement actions. Monitoring and enforcement activities deal not only with facility standards, but also include preparedness for and prevention of fires, explosions, or uncontrolled releases of hazardous waste; contingency plans and emergency procedures; shipping, recordkeeping and reporting requirements; and ground water monitoring.

When appropriate, special investigations are performed. These special investigations focus on coordinating with state and federal agencies to identify violations of criminal codes. Concurrent with special investigations, an increase in multi-media monitoring and enforcement provides a more complete determination of a facilities' compliance with all relevant environmental rules and regulations.

FO personnel provide support to the Pollution Cleanup Division's Texas Emergency Response Center. Field investigators make an on-scene response to many chemical and waste spills, and at any major situation where potential exists for environmental harm.

The Commission depends upon quality chemical and physical data, and quality inspection plans in their decision making. The FO staff provides that quality assurance by operating an analytical laboratory inspection program. Staff members monitor the quality of chemical data and reviews all inspection plans prior to implementation.

Except for matters regarding water utility rates, the FO Division also investigates all complaints, certain requests for assistance from the public, and reports of violations received by the agency.

When necessary, Central Office enforcement action may be initiated to bring about compliance. The agency's enforcement functions were recently reorganized into a single **Enforcement Division** within the Office of Compliance & Enforcement. In addition to the Engineering Services Section and the Multi-Media Section, this division includes Air, Water, and Waste Sections corresponding to the agency's regulatory programs.

Any person violating the Texas Water Code, the Texas Health and Safety Code, any condition of a permit or other authorization, or any rule, regulation, or order of the Commission is subject to enforcement action. Sharing responsibility for initiating and pursuing formal enforcement actions are the Enforcement Division, Industrial & Hazardous Waste (I&HW) Division, the FO Division, and the Litigation Support Division.

Violations discovered by the Commission's staff are documented by a FO Division Coordinator in a memorandum to the division director. Included on the distribution list for documentation of violations are the Enforcement, I&HW, FO, and Litigation Support Divisions, and depending on the nature of the violation, the State Attorney General. The Litigation Support Division and/or Attorney General and appropriate technical staff are advised of any communications concerning pending enforcement actions and offer appropriate assistance to the FO and Enforcement Divisions' staff.

The response used by Enforcement, IHW, and FO to correct permit and/or rule violations is based upon the degree of violation, the environmental and health hazard, and the steps being taken by the permittee to become compliant. In most cases, the Commission's regional staff (FO Division) will attempt to work with the facility to attain compliance either through informal action or through issuance of NOV letters. Listed below in progressive order from less to more serious violations are responses the divisions use to obtain compliance. This list is in no way meant to be inclusive or exclusive.

1. Correspondence -Formally notify the facility of its noncompliance and request implementation of a program for becoming compliant. Correspondence will frequently suffice to correct minor violations. Confirmation of correction is generally documented by performing a Record Review Inspection (NRR) which resolves the violation(s) based on correspondence received from the facility. A site visit could be performed during the NRR inspection process.
2. Conferences/Discussion -Held during inspections to discuss the reasons for noncompliance and to establish an acceptable compliance schedule for becoming compliant. When dealing with complex situations and/or more flagrant violations, staff conferences are frequently required to fully develop all aspects of the problem and to develop acceptable corrective programs. Such action can occur at the regional or central office level.
3. Enforcement Action -Action is in accordance with Enforcement, IHW, and FO Divisions enforcement procedures. Usually, Regional personnel will work with the facility to attain compliance at the regional level through either informal action or the issuance of "Notice of Violation" (NOV) letters. Response by the facility which is sufficient to address the inspectors' concerns results in the violation(s) being "resolved out," usually by a record review inspection. If the facility is recalcitrant and an existing or potential serious environmental threat exists, then the facility can be referred to Central Office Field Operations, Enforcement, and/or IHW staff for formal enforcement action. "Formal enforcement" action can also include investigation and/or enforcement by newly-formed task groups and networks for criminal enforcement.

Formal enforcement proceedings, initiated by the program staff for major violations (or minor violations if violator response to earlier enforcement action is unsatisfactory) include the following options:

1. Issuance of a NOV letter detailing recommendations for corrective actions;

2. Issuance of a petition (usually leading to an Agreed Order) which specifies a corrective action schedule the violator must follow and may contain proposed administrative penalties.
3. Enforcement proceedings before the Commission which may result in amendment, revocation, or suspension of a permit or authorization by rule; and
4. Non-administrative legal actions seeking injunctive relief, civil, or criminal penalties.

Under section 361.251 of the Texas Health and Safety Code, the State may seek administrative penalties of up to \$10,000 per day of violation. The Attorney General may represent the State in civil judicial actions which may seek penalties from \$100 to \$25,000 per violation under section 361.223 of the Texas Health and Safety Code. State prosecutors may bring actions for criminal penalties under sections 361.221-.222 of the Texas Health and Safety Code.

Monitoring of a compliance schedule is carried out from the central office and regional offices through correspondence and/or inspections. Compliance schedules are maintained on a computer and printouts are reviewed regularly to determine the operator's conformance to his schedule. The printout lists schedules and deadlines derived from correspondence, conferences, enforcement referrals, permits, court orders, and lawsuits. Failure to meet a compliance schedule is considered a violation of the Texas Water Code, Texas Health & Safety Code and/or TNRCC rules, and is handled in a manner commensurate with the severity of the violation and/or criminal intent.

The Enforcement Division and FO Division maintain logs of permit noncompliance and proposed and pending enforcement actions. These noncompliance and enforcement logs are updated and distributed monthly to all Enforcement and Program Coordinators, who in turn forward it to appropriate staff personnel.

2. Compliance Support

The Compliance Support Division supports the major program areas of the TNRCC by sponsoring educational outreach events for the regulated community and carrying out the occupational licensing functions within the Commission's jurisdiction.

As part of this division, the **Regulatory Outreach Section** links agency programs and client communities to provide comprehensive information and assistance regarding the Commission and its programs. The section informs and assists client groups in their interactions with TNRCC; provides client groups with improved access to agency programs; and serves as a clearinghouse for technical assistance training opportunities. In addition, the staff provides a unified approach to identifying and addressing agency and client problems and provides an opportunity for client groups to participate in the development of the rules, regulations, and processes which affect them.

The recently organized **Local Government Assistance Section** offers information and assistance to cities, water districts, and other local government entities.

This division also includes the **Occupational Certification Section**, which oversees certification of water and wastewater operators, water well drillers, solid waste technicians, petroleum storage tank installers, and landscape irrigation installers.

F. OFFICE OF LEGAL SERVICES

1. Legal Division

The **Legal Division's** primary functions are to assist in the preparation and revision of agency rules, and to provide legal support concerning permit application processing, hearings, water and sewer rate regulation, administrative lawsuits involving the agency, and other matters. This division provides the Executive Director and his staff and programs with all necessary legal advice. The division is divided into the following major areas: water quality, hazardous and industrial solid waste, municipal solid waste, water rights, water utilities, personnel, contracts, and air quality. In cooperation with the Waste Policy & Regulations Division, the Legal Division assists in the preparation of the agency's applications for delegation of the RCRA program and in drafting any necessary rule changes.

2. Litigation Support Division

The **Litigation Support Division** provides legal support to the enforcement program staff and directs a criminal enforcement unit. In particular, the division provides legal representation and counseling in hazardous and industrial waste enforcement activities and multi-media enforcement activities. The division also provides legal assistance to the Texas Irrigators Advisory Council and the Texas Water Well Drillers Advisory Council.

G. OFFICE OF POLICY & REGULATORY DEVELOPMENT

The Office of Policy & Regulatory Development was created in 1994 to consolidate oversight of the Commission's policy and rulemaking functions to provide greater consistency across program areas and to explore multi-media approaches to policy development. The office includes three divisions that correspond to the agency's major regulatory programs: the Waste Policy & Regulations Division, the Water Policy & Regulations Division, and the Air Policy & Regulations Division. In addition, the Policy Research Division supports management analysis of emerging issues and trends. A general administrative staff and Texas Register liaison group serve all media. The Waste Policy & Regulations Division coordinates with the Legal Division to prepare RCRA authorization applications submitted to EPA and to oversee the proposal and adoption of necessary rule changes.

H. OFFICE OF WATER RESOURCE MANAGEMENT

The Deputy Director of Water Resource Management oversees three divisions: Water Planning and Assessment, Water Utilities, and Agriculture and Watershed Management.

1. Water Planning and Assessment Division

Designated by the Governor as the state water quality planning agency, the Commission coordinates all water quality planning in the state to meet requirements set out in the Texas Water Code and the federal Clean Water Act. This achieved in cooperation with appropriate local planning agencies, the U.S. EPA, other state agencies and river authorities.

The Watershed Assessments & Planning Section updates and maintains the state's water quality management planning program. Part of this update process is achieved by entering into contracts with regional planning agencies. The section reviews wastewater permits, facility plans, and water use/appropriation permits to ensure conformance with water quality management plans. A new function of the section is the implementation of Texas Senate Bill 818, which coordinates the comprehensive assessment of regional water quality by watershed or river basin. The section also is responsible for developing and managing the nonpoint source pollution control program for Texas and the Clean Lakes Program. The Municipal Pollution Abatement Program is developed and implemented by this section.

The Research & Environmental Assessment Section conducts intensive monitoring surveys of rivers, lakes, streams and estuaries to assess water quality and identify problem areas. Data collected in these surveys are utilized by staff in developing waste load evaluations and water quality computer models to determine the water quality effects of pollutant discharges. Preparing plans to improve water quality in identified problem areas is also a function, as is compiling the biennial "Water Quality Inventory." Assessments of state water quality rely on the Statewide Monitoring Network, which is coordinated by this section. All of these activities are vital components in developing and maintaining the State of Texas Surface Water Quality Standards. These standards establish stream, river, reservoir, and estuary uses, and specify general and numerical criteria to protect those uses.

The section assesses instream flow requirements for streams and rivers and freshwater inflows necessary to maintain the ecological health of the state's estuarine systems. Through a cooperative agreement and grant from the National Oceanic and Atmospheric Administration, section staff developed a desk-top computer database entitled Coastal Ocean Management Planning and Assessment System (COMPAS) which provides water resource planners a variable coastal resource database.

The Ground Water Assessments Section performs a variety of functions related to ground water protection and conservation. These include special ground water projects such as the Edwards Aquifer regional wellhead protection project, statewide pollution potential mapping, and

investigations of shallow ground water contamination. Staff also provide assistance to underground water conservation districts and perform evaluations of critical ground water areas as mandated by the Legislature. Other legislative duties consist of reporting on ground water contamination in Texas, assisting the Ground Water Protection Committee and Ground Water Contamination Screening Committee, and maintaining extensive data bases to track ground water pollution in Texas.

Nonpoint source pollution projects are a major responsibility of the section, involving nonpoint source contamination assessment and public education projects, identification of contamination sources, and oversight of the abandoned well closure program. In addition, staff evaluate permits as covered by the agency's Edwards Aquifer rules. Section staff provide information to the oil and gas industry to meet Railroad Commission rules requirements for surface casing of oil and gas wells; evaluate the impact of sulfur, lignite, and uranium exploration projects on ground water; and maintain a database of evaluations of usable quality water.

This division also oversees the Commission's weather modification activities, the Galveston Bay Program, and the Corpus Christi Bay National Estuary Program.

2. Water Utilities Division

The Water Utilities Division performs two primary functions. First, the Division administers the requirements of the federal Safe Drinking Water Act to assure that the approximately 7,100 public water systems in Texas provide safe water to their customers. This program is accomplished through the review and approval of plans and specifications for construction, continuous monitoring for compliance with drinking water standards, and technical assistance to utilities. Sanitary surveys are conducted by the Field Operations Division to assure that systems are operated and performing correctly. The Division also implements initiatives to achieve water conservation.

Second, the Division monitors the financial activities and customer service policies of approximately 1,300 water districts, 850 water supply corporations ("WSCs"), and 1200 investor-owned utilities ("IOUs") to assure that customers receive adequate water and wastewater services at reasonable costs. This function is accomplished through the review of the issuance and use of bond proceeds by water districts, the approval of service areas of WSC's and IOU's, the establishment of water and wastewater rates of these entities, technical assistance, and resolution of consumer complaints.

3. Agriculture & Watershed Management Division

The **Wastewater Permits Section** evaluates permit applications for wastewater discharge permits. This section also reviews plans and specifications for all proposed domestic wastewater treatment projects to assure compliance with appropriate state design criteria. Additionally, the section reviews plans and specifications for water districts and projects to be located over the Edwards

Aquifer. In coordination with the EPA, the section evaluates pretreatment programs of publicly-owned treatment works (POTWs). Additionally, the staff evaluate and assist POTWs in developing local limits designed to assure that treatment facilities comply with the Texas Surface Water Quality Standards and applicable EPA regulations.

Staff provide assistance and oversight to permittees required to conduct a toxicity identification evaluation/toxicity reduction evaluation, and evaluate federal permits and licenses for compliance with the Texas Surface Water Quality Standards. This section's program support team maintains a wastewater permit database, tracking monthly self-report data received from municipal and industrial permitted entities state-wide. Water quality data is provided to the Enforcement Division, other areas of the agency, and to the public upon request.

The **Surface Water Uses Section** evaluates permit applications for water rights permits and seeks to reduce the number of unsafe dams. The section also coordinates watermaster operations. At present, there are two watermaster programs in operation: the Rio Grande watermaster offices in Weslaco and Eagle Pass, which allocate state surface water in the Lower and Middle Rio Grande, and the south Texas Watermaster, with an office in San Antonio, responsible for the Guadalupe, San Antonio and Nueces River Basins.

The **Agriculture Section** is responsible for water quality and water rights permitting, enforcement, and water conservation activities related to agriculture. In addition, this section implements the State Management Plan for Agricultural Chemicals in Ground Water, provides accredited training to pesticide handlers and users, models pesticide movement through the soils and ground waste, monitors for pesticides in ground water, and provides support to the Agricultural Chemical Subcommittee and the pesticide collection program. This section also conducts agricultural chemical container recycling and collection events; awards household hazardous waste grants, and facilitates other household hazardous waste programs. In addition, the section provides technical assistance on floodplain management practices.

I. OFFICE OF ADMINISTRATIVE SERVICES

In addition to the agency's Chief Financial Officer, the Deputy Director of Administrative Services oversees seven divisions: Information Resources, Human Resources, Budget, Financial Administration, Support Services, Public Information and Publications, and Organizational Development and Training.

1. Information Resources Division

The Information Resources Division provides automation services and support to the agency, as well management of the agency's central records. **Information Technology Services** provides services to agency operations across the state, including strategic planning for agency information systems; operational planning, analysis, design, programming, installation and training for new and enhanced agency-wide information systems; and maintenance of over 100 production systems.

This section also supports an agency advisory committee for information resource management and coordinates all relevant plans and activities with the Texas Department of Information Resources. Section staff provide data processing and computer graphics services to other agencies through interagency contracts, and also provide reports requested by business and industry around the state.

Enterprise Services houses the agency's central records for use by agency staff and the general public, and provides records management, microfilming, and electronic imaging services to the agency.

The **Systems Management Services Section** evaluates, procures, installs, maintains, supports, and trains agency staff in the use of microcomputer hardware and software of microcomputer-based applications and office automation tools. This section also develops and supports agency administrative mainframe applications.

2. Human Resources Division

The division consists of four sections: Recruitment/Staffing/Classification, Compensation/Benefits, Employee Relations, and Personnel Services. The **Recruitment/Staffing/Classification Section** is responsible for job posting, recruiting, applicant tracking and reporting. Employment activities include monitoring Equal Employment Opportunity compliance and reporting progress toward affirmative action goals, as well as developing intern and co-op programs. The section also conducts classification analyses.

The duties of the **Compensation/Benefits Section** include maintaining personnel records and the personnel data base and handling employee benefits, such as group health insurance, retirement, workers' compensation and deferred compensation. The agency payroll and timekeeping functions also operate within this section.

The **Employee Relations Section** handles all employee grievances and sensitive personnel-related matters. With the help of the Employee Assistance Program, troubled employees and their families can receive referrals to appropriate sources of care. Training on issues such as stress management, signs of drug use in the work place, and dealing with a difficult child are offered to employees as part of Employee Relations.

General training classes on management and administrative issues are offered through the **Personnel Services Section** to assist employees in their career development. In addition, special speakers and outside training activities are often coordinated for employees. Staff travel to the agency's district offices to share training events with field personnel. This section is also responsible for employee wellness, incentive, and recognition programs.

3. Budget Division

The Budget Division oversees the process of allocating the agency's financial resources to its various divisions and programs.

4. Financial Administration Division

The Financial Administration Division provides financial support and services to the Commission and its programs. The **Revenues Section** processes and accounts for all deposits and refunds for the agency. The major fees programs include: wastewater inspection fees; hazardous and solid waste disposition, facility and generator fees; toxic reporting fees; solid waste management fees; and above-ground, underground, and licensing petroleum storage tank fees.

The **Grants and Contracts Section** reviews the financial terms and conditions of all grants and contracts associated with the Commission, including time for payment and review of vouchers for contractual terms and conditions, including available balances. Reviews are performed for federal grant applications, initiation forms, award documents, and amendments with respect to financial terms and conditions. This section also plays a significant role in assisting the U.S. EPA by providing testimony for court cases involving cost recovery efforts.

The **Financial Reporting Section** prepares the Annual Financial Reports for the Commission. Additionally, on a contractual basis, annual reports and other financially-related tasks are performed for all Compacts Commissions and the Water Well Drillers Advisory Council. This section monthly reconciles agency cash accounts with the State Comptroller's records and prepares expenditure transfers between funds for cost allocation purposes.

The **Disbursements Section** processes all travel claims and claims for receipt of goods or services; codes and encumbers expenditure requisitions of the agency amended budget; reviews and approves vouchers for payment; performs cash management activities and ensures compliance with Accounting Policy Statements issued by the Comptroller's office.

The **Purchasing Section** effects the requisition and procurement of supplies, equipment, and services necessary to the programs and operations of the Commission.

The **Audit and Program Coordination Section** assists in coordinating the Uniform Statewide Accounting System; establishing the petroleum storage tank reimbursement audit program; coordinating all program audits; and assisting in the preparation of the annual financial statement.

The **Financial Assurance Section** maintains and monitors acceptability of financial assurance documents for all TNRCC program areas that require financial security. It reviews insurance and bond submittals per contract requirements and makes insurance and bond recommendations to reduce financial loss to the TNRCC through contractor error in contract performance. It performs financial reviews in unwilling or unable enforcement cases, PRP, and penalty cases. Also, it

performs detailed financial analysis for new and modified hazardous waste management permit applications.

5. Support Services Division

The Support Services Division's **Staff Services** and **Support Operations Sections** run the agency's mail system, manage property and supply, and perform facilities planning functions in the agency. This division also includes the **Telecommunications Section**.

The **Reproduction Section** works with the Public Information and Publications Division of the agency in the preparation of agency documents and reports, including related drafting, printing, and information productions.

6. Organizational Development and Training

This division oversees a number of training and development activities, including program evaluation and the Technical Training Academy.

7. Public Information and Publications Division

The Public Information and Publications Division develops information initiatives directed toward all areas of the public. This division manages the Commission's library, which is the largest water-related library in the nation not affiliated with a university. The **Environmental Education Section** coordinates the agency's public information programs, including planning public awareness and education initiatives. This section also is involved with agency programs directed toward teachers and school children, to promote hands-on learning experiences in environmental education. Along with the **Publishing Section**, the **Graphics Section** coordinates the production of all agency publications and other printed materials.

J. Office of Air Quality

The Office of Air Quality was formerly part of the Texas Air Control Board. It became part of the TNRCC in September 1993. The Office has five divisions: Air Quality Planning & Assessment Division, Operating Permits, New Source Review, Mobile Source, and Monitoring Operations.

1. Air Quality Planning & Assessment Division

There are two central functions to this division: emissions inventory and modeling. The **Emission Inventory Section** maintains an extensive database on the quantity and types of all contaminant emissions released in Texas. The database is maintained pursuant to the federal requirements under the Clean Air Act.

The **Modeling Section** conducts area-wide modeling to determine attainment status and ensure reduction of emissions by the state. In addition, this section assists in the permit review of specific modeling data offered by permit applicants. Pursuant to the RCRA 1995-96 Workplan, the Modeling Section will assist in the development of a Combustion Strategy, to be updated as needed, in order to bring all existing interim status hazardous waste incinerators and Boilers and Industrial Furnaces (BIFs) under more rigorous permit requirements. This program element will provide for the review and approval of comprehensive risk assessment protocols and final comprehensive risk assessments submitted by BIF and incinerator applicants.

2. Operating Permits Division

The division is currently responsible for developing and implementing Title III and V programs as mandated by the Federal Clean Air Act of 1990. This includes developing methodologies, guidance documents and tools to streamline and allow implementation of these programs in the most efficient manner possible. Upon approval of these programs by the U.S. Environmental Protection Agency this division will be responsible for processing approximately 8,000 permits.

3. New Source Review Division

This division is charged with all permit application review activities. This includes the technical evaluation of submitted applications and application amendments for compliance with the regulations and completion of all administrative requirements (formal notice, issuance and tracking). In addition, this division coordinates its efforts with the regional offices of the TNRCC.

4. Mobile Source Division

The mobile source division develops and implements programs that are intended to prevent and reduce pollution caused by cars, trucks and other motor vehicles. This division is responsible for implementing vehicle emissions testing programs that are required in the Dallas/Fort Worth, Houston and El Paso areas of the state. The program requires residents to have their vehicles tested for excess emissions periodically and make any necessary repairs as part of the annual safety inspection. The division assists fleet vehicle owners throughout the state in complying with mandates that address the use of cleaner burning vehicles and fuels. The division also assists employers in designing voluntary efforts to reduce the number of vehicles on highways by implementing car and van pools, bus services, telecommuting, biking, and other alternatives to single occupancy vehicles. Finally, the division also reviews emerging mobile source technologies that could become part of future strategies to reduce air pollution.

5. Monitoring Operations Division

The Monitoring Operations Division is charged with the following responsibilities: (1) identifying, assessing, and compiling reports on ambient air quality for the public, industry, environmental

groups, government agencies, and legislators; (2) air quality monitoring, including airshed computer modeling, in order to satisfy federal and state mandates; and (3) maintaining monitoring equipment and a state-of-the-art laboratory for sampling and monitoring systems. In addition, the division conducts quality assurance analyses on the reported data. Finally, the division assists permitted industries in establishing protocols and procedures for private facility monitoring.

IV. PUBLIC NOTICE, HEARING, AND APPEAL PROCESSES

As described above, the staff of the Industrial & Hazardous Waste Division's Permits Section perform a technical review of all administratively complete permit applications and recommend approval or denial of the application. If the recommendation is for denial, the applicant may request a contested case hearing. If the recommendation is for approval, the staff forwards a final draft permit package to the Chief Clerk of the Commission. The Chief Clerk prepares the public notice language, which includes required information regarding the application and instructions for additional information and hearing requests. The Chief Clerk mails the notice to persons required to receive mailed notice and to the applicant with instructions for publication. The applicant is responsible for public notice by newspaper and local radio broadcast.

The Commission's rules provide for public meetings concerning hazardous waste permit applications to the same extent as provided under the federal rules. In addition, any affected party, including the applicant, may request a contested case hearing any time within a period of 45 days after notice of an application has been given. If no contested case hearing is requested, the draft permit is sent to the Executive Director for signature of approval pursuant to section 5.115 of the Texas Water Code and Title 30 Texas Administrative Code § 50.31. The applicant, the Public Interest Counsel or other person may file a motion for reconsideration of the Executive Director's approval of an application.

If a contested case hearing is requested, the Commission will evaluate whether the request meets the substantive requirements for granting of the request. Pursuant to legislation enacted in 1995, the Commission's contested case hearings are now presided over by an administrative law judge employed by the State Office of Administrative Hearings, a separate state agency. At the completion of a hearing, the administrative law judge forwards proposed findings of fact, conclusions of law, and recommendations to the Commission. The matter is then placed on the Commission's agenda for its consideration. The Commission may approve as recommended, modify and approve, or deny the application. A decision by the Commission is subject to judicial appeal pursuant to the Texas Health and Safety Code, the Texas Water Code, and the Administrative Procedure Act, Chapter 2001, Texas Government Code.

V. FUNDING AND RESOURCES

The organizational structure of the Commission is shown in attached chart. The agency has been reorganized along both programmatic and functional lines to make for an effective, efficient, and responsive public agency. Permitting and planning responsibilities for each major program have

been vested in the division responsible for that particular area. Enforcement responsibilities for all agency programs are now vested in the Office of Compliance and Enforcement to assure consistency and allow better coordination of multi-media enforcement actions.

The day-to-day operations of the industrial and hazardous waste management program reside in seven divisions: the Industrial and Hazardous Waste Division, which administers and oversees all aspects of hazardous and industrial solid waste activities in Texas, except enforcement; the Field Operations Division, which performs most of the monitoring activities for the Commission; the Enforcement Division; the Legal Division, which provides the legal representation and advice required by the Executive Director of the Commission and his technical and administrative staff; the Litigation Support Division, which provides legal support in enforcement matters; the Pollution Prevention and Recycling Division, which administers pollution prevention programs; and the Waste Planning & Assessment Division, which implements the Texas Strategic Solid Waste Plan and the twenty-four regional solid waste management plans through grant programs.

Table 1 shows staffing within the participating divisions who participate in RCRA/HSWA activities and the percentage of effort devoted to the implementation of the industrial and hazardous waste management program.

Table 1	
State Agency Staff Carrying Out the Program	
Fiscal 1995	
Division	Number of Work years
Industrial & Hazardous Waste	105.49
Field Operations	49.00
Legal Services	5.90
Waste Policy	3.20
Pollution Prevention & Recycling	2.14
Border Affairs & Environmental Equity	1.00
Air Quality Planning	2.00
Air Enforcement	5.00
Small Business Advocate	1.00
Litigation Support	3.50
TOTAL	178.23

Funding

Budget requirements for the fiscal year are met through federal assistance funds authorized by Sec. 3011 of Subtitle C-Hazardous Waste Management of RCRA and made available by a Federal Cooperative Agreement between EPA and the State of Texas. Seventy-five percent of the funding is provided by the EPA and the twenty-five percent state match is provided by funds appropriated by the Texas Legislature or assessed by the Commission through user fees.

Since the beginning of state fiscal year 1986, the funding support to state hazardous waste regulatory programs and remediation activities at abandoned waste disposal sites has been provided almost exclusively by fees assessed against industries involved in the production or management of hazardous wastes.

Table 2 shows the allocation of federal and non-federal resources dedicated to the implementation of the RCRA program for fiscal 1995.

Table 2		
Direct Program Cost	Federal	Non-Federal
Permitting	\$2,467,669	\$822,556
Corrective Action	535,754	178,584
Compliance Monitoring	1,375,706	458,568
Enforcement	1,777,207	592,402
Program Management	786,383	262,128
Information Management	725,945	241,981
Authorization	141,166	47,055
US/Mexico Border	415,375	138,458
US/Mexico Border - OIA	328,003	109,333
Gulf of Mexico	470,032	156,677
Pollution Prevention	115,362	38,454
Environmental Justice	62,175	20,725
TOTAL	\$9,200,774	\$3,066,924

Table 3 shows the distribution of federal and non-federal funds by object class category for fiscal 1995 and 1996.

Table 3		
Costs by Object Class Categories		
Expense Item	FY 95 Total Costs	FY 96 Total Costs
Work Years	178.23	177.23
Salary (including Release Time)	\$6,539,053	\$ 6,513,071
Fringe (.2900)	1,896,318	1,704,469
Indirect (.3982)	2,603,851	2,792,153
SUBTOTAL	11,039,222	11,009,693
Travel	352,577	341,198
Equipment	38,200	5,000
Supplies	146,474	86,560
Contractual	32,000	114,667
Other	659,226	637,942
TOTAL	12,267,698	12,195,060

The estimated number of regulated activities subject to program revision requirements is summarized in Table 4.

TABLE 4

ESTIMATED STATE OF TEXAS ACTIVITIES SUBJECT TO
PROGRAM REVISION REQUIREMENTS

Type of Activity	Number of Handlers (Texas)	Waste (1) Quantities Tons (Texas)
Generators	(2,3) 15,585	181,300,800
Transporters	(3) 3,049	(4) N/A
Storage		
On-Site	(5) 109	4,396,000
Off-Site	(5) 17	(6) 13,800
Processing		
On-Site	(5) 90	158,112,000
Off-Site	(9) 24	(6) 9,316,000
Disposal		
On-site	(5) 45	8,824,000
Off-Site	(10) 15	(6) 304,000
Transported Into Texas	(7) 14,668	341,000
Transported Out of Texas	(8) 1,110	335,200

Legend

- (1) All volume data is based upon 1991 data, as of June, 1993
- (2) Number of active generators within Texas with a hazardous waste stream on the Notice of Registration. It includes LQG, SQG, and CESQG.
- (3) Number based upon October 24, 1994 data.
- (4) Data element not applicable to Texas.
- (5) Minimum number (of the top 200 generators) reporting the activity at the end of the year.
- (6) Off-site includes all handlers receiving waste from off-site shipments to commercial and captive facilities. Discharges to wastewater treatment plants are included in on-site volume totals.
- (7) Number of individual shipments into Texas. (The State does not track individual shippers to Texas.)
- (8) Number of Texas generators shipping out of State. (Does not include one-time shippers without a State Identification Number)
- (9) Number of permitted commercial facilities. (Does not include facilities under interim status or captive facilities)
- (10) Includes commercial and captive landfills, land treatment units, and UIC facilities.

Table 5

RCRA CLUSTER II

EFFECT OF NEW REQUIREMENTS ON TNRCC WORKLOADS

Regulation	Effect on TNRCC Workload
1. Wood Preserving Listings; Technical Corrections 56 FR 30192-30198 Checklist 92	Insignificant
2. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments I 56 FR 32688 Checklist 94	Insignificant
3. Land Disposal Restrictions for Electric Arc Furnace Dust (K061) 56 FR 41164-78 Checklist 95	Insignificant
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II 56 FR 42504-42517 Checklist 96	Minor
5. Exports of Hazardous Waste; Technical Correction 56 FR 43704 Checklist 97	None
6. Second Correction to the Third Third Land Disposal Restrictions 57 FR 8086-8089 Checklist 102	None
7. Hazardous Debris Case-by Case Capacity Variance	Insignificant

57 FR 20766-20770
Checklist 103

- | | | |
|-----|--|---------------|
| 8. | Used Oil Filter Exclusion
57 FR 21524-21534
Checklist 104 | Insignificant |
| 9. | Recycled Coke By-Product Exclusion
57 FR 27880-27888
Checklist 105 | Insignificant |
| 10. | Lead-Bearing Hazardous Materials
Case-by-Case Capacity Variance
57 FR 28628-28632
Checklist 106 | None |

Table 6

RCRA CLUSTER IIIEFFECT OF NEW REQUIREMENTS ON TNRCC WORKLOADS

<u>Regulation</u>	<u>Effect on TNRCC Workload</u>
1. Used Oil Filter Exclusion; Technical Corrections 57 FR 29220 Checklist 107	Insignificant
2. Toxicity Characteristic Revisions; Technical Corrections 57 FR 30657-30658 Checklist 108	Insignificant
3. Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris 57 FR 37194-37282 Checklist 109	Major
4. Coke By-Products Listings 57 FR 37284-37306 Checklist 110	Minor
5. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III 57 FR 38558-38566 Checklist 111	Minor
6. Consolidated Liability Requirements 53 FR 33938-33960 (September 1, 1988) 56 FR 30200 (July 1, 1991) 57 FR 42832-42844 (September 16, 1992) Checklist 113	Minor

- | | | |
|-----|---|---------------|
| 7. | Burning of Hazardous Waste in Boilers
and Industrial Furnaces;
Technical Amendment IV
57 FR 44999-45001
Checklist 114 | Minor |
| 8. | Chlorinated Toluenes Production Waste Listing
57 FR 47376-47386
Checklist 115 | Minor |
| 9. | Hazardous Soil Case-By-Case
Capacity Variance
57 FR 47772-47776
Checklist 116 | Insignificant |
| 10. | Reissuance of the "Mixture" and
"Derived-From" Rules
57 FR 7628-7633 (March 3, 1992)
57 FR 23062-23063 (Amended on June 1, 1992)
57 FR 49278-49279 (Amended on October 30, 1992)
Checklist 117-A | None |
| 11. | Toxicity Characteristic Amendment
57 FR 23062-23063
Checklist 117-B | None |
| 12. | Liquids in Landfills II
57 FR 54452-54461
Checklist 118 | Insignificant |
| 13. | Toxicity Characteristic Revision;
TCLP Correction
57 FR 55114-55117 (November 24, 1992)
58 FR 6854 (Amended February 2, 1993)
Checklist 119 | Insignificant |
| 14. | Wood Preserving; Revisions to Listings
and Technical Requirements
57 FR 61492-61505
Checklist 120 | Moderate |
| 15. | Corrective Action Management Units
and Temporary Units | Major |

58 FR 8658-8685
Checklist 121

16. Land Disposal Restrictions;
Renewal of the Hazardous Waste Debris
Case-by-Case Capacity Variance
58 FR 28506-28511
Checklist 123
Minor
17. Land Disposal Restrictions for Ignitable
and Corrosive Characteristic Wastes
Whose Treatment Standards Were Vacated
58 FR 29860-29887
Checklist 124
Minor

TNRCC ORGANIZATION

July 17, 1996
GI-1b

